



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

SDMS Document



118143

May 10, 2012

BY OVERNIGHT DELIVERY

Consolidated Edison Company of New York, Inc.
Attention: Kevin Burke
Chairman of the Board and Chief Executive Officer
4 Irving Place
New York, NY 10003

Re: Newtown Creek Superfund Site, Kings County and Queens County, New York
Request for Information Pursuant to the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Sir:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release and threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). More information about CERCLA, including a copy of the Superfund law, may be found at www.epa.gov/superfund.

EPA has documented the release and threatened release of hazardous substances into the environment at the Newtown Creek Superfund Site ("Site"). The Site includes a body of water located in Kings County and Queens County in the City of New York and the State of New York. Newtown Creek is a tidal arm of the New York-New Jersey Harbor Estuary that forms the northwestern-most border between the New York City boroughs of Brooklyn and Queens. It is a tributary of the East River and includes Newtown Creek proper and its five branches (or tributaries) which are known, respectively, as Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills, along an approximately 3.8-mile reach. References in this letter to "Newtown Creek" are meant to include Newtown Creek proper and its tributaries. Further information about the Newtown Creek Superfund site is available on EPA Region 2's website at: <http://www.epa.gov/region02/superfund/npl/newtowncreek/>.

In response to the release and threatened release of hazardous substances into the environment at the Site, EPA has spent public funds and anticipates spending additional public funds. These actions have been and will be taken by EPA pursuant to CERCLA.

The Site has been listed pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, on the national priorities list of releases and threatened releases of hazardous substances, based upon the relative

risk or danger to public health or welfare or the environment, for the purpose of taking action pursuant to CERCLA at such sites. Newtown Creek was listed pursuant to EPA rulemaking by publication in the *Federal Register*, on September 29, 2010. A remedial investigation and feasibility study at the Site is currently being undertaken, under EPA oversight, by a group of potentially responsible parties pursuant to an administrative settlement agreement and order on consent. The remedial investigation focuses on a Study Area which includes the sediments and the waters of Newtown Creek.

Historically, Newtown Creek drained the uplands of western Long Island and flowed through wetlands and marshes. However, due to heavy industrial development and governmental activities dating from the 1800s, formerly wet areas have been filled, Newtown Creek has been channelized, and its banks have been stabilized with bulkheads and rip rap.

The Newtown Creek area of Brooklyn and Queens has a history of extensive industrial development stretching back to the 1800s. By the second half of the nineteenth century, the area surrounding and adjacent to Newtown Creek had become highly industrialized. This development resulted in major reworking of the Creek banks and channel for drainage, municipal discharges, and navigation purposes. Hazardous substances discharged by industrial, municipal, and other sources over the years ended up in the Creek. Currently the predominant land use around Newtown Creek includes industrial, manufacturing, warehousing, transportation, municipal infrastructure, and utility facilities. Residential development is planned for the areas near the mouth of the Creek on both the Brooklyn and Queens sides.

The Site includes contaminated sediments for which there are numerous possible sources. Sampling events have shown the sediments in the Creek to be contaminated with a variety of hazardous substances which traverse almost the entire length of the Creek, and which include a wide variety of metals, pesticides, polycyclic aromatic hydrocarbons, phthalates, polychlorinated biphenyls, and volatile organic contaminants.

As part of its investigation of potential sources of contamination to Newtown Creek, EPA is seeking information regarding entities which operated in the vicinity of Newtown Creek. Your company is receiving this letter because EPA believes that the company currently owns and operates and formerly owned and operated facilities adjacent or near to Newtown Creek that may have discharged or released hazardous substances that ended up in Newtown Creek. Please also note that EPA's investigation of the source of contamination to Newtown Creek is expected to occur in phases. Thus, as EPA obtains information concerning the Site, the Agency may seek further information from your company about its ownership or operation of your company's facilities.

INFORMATION REQUEST

This letter seeks your cooperation in providing information and documents relating to the Site. We encourage you to give this letter your immediate attention. A complete and truthful response

to the attached Request for Information should be submitted to EPA within 45 calendar days of your receipt of this letter.

Under Section 104(e) of CERCLA, EPA has broad information gathering authority which allows the Agency to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the enclosed Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

It is possible that some of the information that EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included with the enclosed Request for Information, including the requirement of supporting your claim of confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by the Request for Information, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520.

Your response to this Request for Information (in hard copy and pdf) should be sent to:

Michael A. Mintzer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866
mintzer.michael@epa.gov

with a copy (in pdf only) to:

Caroline Kwan
Remedial Project Manager
New York Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
290 Broadway, 20th Floor
New York, NY 10007-1866
kwan.caroline@epa.gov

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, you may call Mr. Mintzer at (212) 637-3168.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Nicoletta DiForte".

Nicoletta DiForte
Senior Enforcement Policy Advisor
Emergency and Remedial Response Division

Cc: Elizabeth Moore, General Counsel
Consolidated Edison Company of New York, Inc.

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question.
2. Identify each answer with the number of the question to which it is addressed.
3. Please provide one hard copy as well as one pdf copy (on diskette) of your response and documents to Mr. Mintzer, and one pdf copy (on diskette) to Ms. Kwan.
4. For each document produced in response to this Request for Information, indicate on the document, or in some other clear manner, the question to which it applies.
5. In preparing your response to each question, consult with all present and former employees and agents of your Company whom you have reason to believe may be familiar with the matter to which the question pertains.
6. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
7. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
8. If you have reason to believe that an individual other than one employed by your Company, as the term is defined below, may be able to provide additional details or documentation in response to any question, identify that person.
9. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
10. If anything is omitted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the omission.
11. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.
12. If a response to any question is answered completely by a response to another question, or a request for a document has been addressed by a separate production, you may cross reference the responses so that you do not need to provide a duplicate response or duplicate documents.

13. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential business information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. Section 2.203(b).
14. If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:
 - a. the portions of the information which are alleged to be entitled to confidential treatment;
 - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. measures taken by you to guard against the undesired disclosure of the information to others;
 - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope. For documents submitted in pdf on diskette, please send separate diskettes for confidential information.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information entitled to confidential treatment will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. As used herein, the term “Newtown Creek” shall refer to Newtown Creek, and shall include its five branches or tributaries, respectively Dutch Kills, Maspeth Creek, Whale Creek, East Branch, and English Kills.
2. As used herein, the term “Site” shall refer to Newtown Creek and any areas that have been a source of contamination to Newtown Creek, or are places where releases of such contamination to the Newtown Creek have come to be located.
3. As used herein, the term “hazardous substance” shall have the meaning set forth in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of “hazardous substance” under Section 101(14) of CERCLA) are set forth at 40 CFR Part 302.
4. As used herein, the terms “hazardous waste,” “disposal,” and “storage” shall have the meanings set forth in Sections 1004(3), (5), and (33) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6903(3), (5), and (33), respectively.
5. As used herein, the term “industrial waste” shall mean any solid, liquid or sludge or any mixture thereof which possesses any of the following characteristics:
 - a. it contains one or more “hazardous substances” (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a “hazardous waste” as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product which could be reused after rehabilitation; or
 - l. it is any material which you have reason to believe would be toxic if ingested, inhaled or placed in contact with your skin.
6. As used herein, the term “release” shall have the meaning set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
7. As used herein, the term “Company” refers to the addressee of this letter and its current and past constituent and affiliated entities that may have owned, controlled, leased or operated or had rights to operate at any of the facilities defined in Definition number 9.

8. As used herein, the term “affiliate” or “affiliated” refers to all entities now or formerly controlling, controlled by or in common control with the Company, and whether currently in existence or no longer in existence.
9. As used herein, the terms:
 - a. “Ash at McGuinness Facility” shall mean the real property located at Ash Avenue and McGuinness Boulevard, Brooklyn, New York (Borough of Brooklyn, Block 2491, Lot 136) together with the structures, infrastructure and other improvements located thereon;
 - b. “11th Street Conduit Facility” shall mean the tunnel or conduit extending under Newtown Creek containing the Company’s electrical distribution cable for Brooklyn and Queens together with the associated infrastructure, and the extension of such conduit beyond Newtown Creek that is situated within 1,000 feet of the shoreline of Newtown Creek; and
 - c. “Other Newtown Creek Facilities” shall mean all properties or facilities, now or formerly owned or operated by the Company (other than the Ash at McGuinness Facility and the 11th Street Conduit Facility) within the area extending 1,000 feet from the shoreline of Newtown Creek, including all real properties and associated infrastructure and all power delivery infrastructure including, without limitation, any infrastructure involved in generation, transmission or distribution of power, including electricity, steam, manufactured gas or natural gas, and specifically including tunnels, cables or pipelines.
10. The term “identify” means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position, or business.
11. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (*e.g.*, corporation, partnership, business trust, etc.), a brief description of its business and its ultimate parent corporation.
12. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA or RCRA or in their implementing regulations, in which case the statutory or regulatory definitions apply.

REQUEST FOR INFORMATION

Section 1.0 Company Information

1. Company Identification: Provide the following information with respect to the Company.
 - a. The full legal, corporate name and mailing address.
 - b. The state and date of incorporation of the Company and the date of qualification to do business in the State of New York.
 - c. The identity of the Chief Executive Officer of the Company.
 - d. If the Company is a successor by merger, acquisition or other activity to any other entity, identify each predecessor and identify the nature of the succession.
2. Future EPA Communications: If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

Section 2.0 Company Facilities

Section 2.1 Ash at McGuinness Facility and 11th Street Conduit Facility

3. Ash at McGuinness Facility. Please identify with respect to the Ash at McGuinness Facility (see Definition 9.a):
 - a. Nature of the Company's interest in the Ash at McGuinness Facility and date it acquired such interest (e.g., owner fee title, leasehold, etc.).
 - b. Street address of the Ash at McGuinness Facility.
 - c. Describe buildings and improvements at the Ash at McGuinness Facility and dates put into service by the Company.
 - d. Identify the function of the Ash at McGuinness Facility in the Company's electric generation, transmission and distribution business. Please describe infrastructure at the facility and the role played by such infrastructure in the Company's business operations.
 - e. Relationship of the Ash at McGuinness Facility to the 11th Street Conduit Facility (see Definition 9.b).
 - f. Provide a copy of all instruments evidencing the acquisition of the Company's interest (e.g., deeds, leases, licenses, etc.).
4. 11th Street Conduit Facility. Please respond with respect to the 11th Street Conduit Facility (see Definition 9.b):
 - a. Provide a description of the 11th Street Conduit Facility.

- b. Please identify on a map of the Newtown Creek area (e.g., Google map print or equivalent) of one inch equals 500 feet (or more detailed), the location and extent the 11th Street Conduit Facility.
 - c. Please provide a copy of any plan or drawing in the Company's possession which shows the vertical and horizontal extent of the portion of the 11th Street Conduit Facility within Newtown Creek.
 - d. Identify the Company's interest in the real property in or on which the 11th Street Conduit Facility is located (e.g., owner of fee title, lessee, licensee, statutory or regulatory approval to locate the facility at real property owned by another person) as to the portion crossing Newtown Creek and each other segment of the conduit within 1,000 feet of Newtown Creek.
 - e. Identify the date that the 11th Street Conduit Facility was constructed, installed and put into service.
 - f. Identify the construction material for the conduit and the nature of seepage into the conduit from surrounding groundwater or from Newtown Creek waters, and the releases by seepage out from the conduit into the surrounding environment.
 - g. Describe the functioning of the 11th Street Conduit Facility and its function in the Company's electric generation, transmission and distribution business.
 - h. Provide a cross section drawing of the 11th Street Conduit depicting the tunnel, cables, and associated infrastructure and a drawing showing the location of the conduit within Newtown Creek and in or on the uplands within 1,000 feet of Newtown Creek.
 - i. Identify the function of the oil filled cables in the 11th Street Conduit Facility, identify the type of oil used in the conduit, PCBs used in the conduit and the purpose for such materials within the conduit.
 - j. Identify other contaminants present in the 11th Street Conduit Facility, the nature of their introduction and the method of their release.
 - k. Identify cathodic protection of the conduit, dates of installation and provide copies of reports on cathodic effects.
 - l. Provide a copy of Company literature describing the construction, function and maintenance of the 11th Street Conduit Facility.
5. Photographs, maps, drawings, surveys, Sanborn maps. Provide photographs, maps, drawings, surveys, and Sanborn maps showing current as well as previous locations and configurations of the following with respect to the Ash at McGuinness Facility and the 11th Street Conduit Facility:
- a. Historic photographs of each facility.
 - b. Current and previous configuration of buildings, improvements and infrastructure.
 - c. Current and previous configurations of sanitary and storm sewers.
 - d. Current and previous configurations of solid waste management units.
 - e. Current and previous configurations of below-ground infrastructure.
 - f. Current and previous configurations of above-ground structures and infrastructure.

- g. Current and previous configurations of direct discharge facilities including pipes, ditches and other conveyance features.
6. Oil/Water Separators. Identify all oil/water separators operating in connection with the Ash at McGuinness Facility, the 11th Street Conduit Facility and all Other Newtown Creek Facilities. For each oil/water separator, please identify as follows:
- a. Location of each oil/water separator, dates of construction and installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge.
 - b. Provide a copy of each permit and permit application for each oil/water separator.
 - c. Attach a drawing showing the water flow through the facility, the sources of intake water, operations contributing waste water to the effluent, and treatment units.
 - d. Provide a copy of all influent sampling results relating to oil/water separators.
 - e. Provide a copy of all effluent sampling results for discharge to Newtown Creek before installation of the oil/water separator.
 - f. Provide a copy of discharge monitoring reports after installation of oil/water separator.
 - g. Provide copies of submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.
 - h. Provide a copy of Company manuals relating to operation of oil water separators.
7. Environmental Data and Reports. Provide a copy of all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Ash at McGuinness Facility. Provide copies of all documents containing such data and information, and analysis or interpretation of such data.
8. Solid Waste Management Units. Identify all past and present solid waste management units or areas where materials are or were in the past managed, treated, or disposed (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, drainage ditches, tanks, drums, container storage areas, etc.) on the Ash at McGuinness Facility.
9. Outfalls, Pipes, Drains, Sheet flow, Etc. Identify each outfall or discharge point, including, if applicable, sheet-flow, from any Company facility that now or formerly discharges or discharged directly or indirectly to Newtown Creek from the Ash at McGuinness Facility, the 11th Street Conduit Facility and all Other Newtown Creek Properties to Newtown Creek. Please identify:
- a. The location and type of each discharge.
 - b. The source of effluent.
 - c. The volume (gallons per day) of the discharge.
 - d. The characteristic of the influent and effluent.

- e. Permits associated with such discharge.
10. Facility drainage studies. Provide copies of any storm water or drainage studies for the Ash at McGuinness Facility, including data from sampling, conducted for that facility on storm water, sheet flow, or surface water runoff.
11. Connections to New York City sewer system:
- a. State whether the Ash at McGuinness Facility is connected to the New York City sewer and the date that the facility was first connected.
 - b. State whether the facility has ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges.
 - c. State whether the facility participates in the New York City pretreatment program, whether the Company has ever been classified as a significant industrial user, and whether the Company has ever been in violation of sewer use requirements or permits or received any notices of violation relating to use of the New York City sewer system.
 - d. Provide information detailing the volume of liquids discharged to the sewers and the nature of the discharges including analytical data detailing the makeup of the discharged liquids.
 - e. Provide copies of all permits and permit applications for New York City Industrial Wastewater discharge permits.
 - f. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Company's use of the New York City sewer system.
 - g. Copies of any Baseline Monitoring Reports submitted to New York City in connection with the Company's application for an industrial wastewater discharge permit.
 - h. Copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes.
 - i. Copies of all periodic monitoring reports for wastes discharged through the sewer system.
12. Describe the receipt, storage and use by the Company of chemicals including, specifically but separately, polychlorinated biphenyls ("PCBs") and metals at the Ash at McGuinness Facility and at the 11th Street Conduit Facility.
- a. For chemicals other than PCBs: Identify chemicals, including if applicable, creosote, oil and grease, benzene, toluene, ethylbenzene and xylenes, present at or acquired for use at the facility including the identification of each such chemical and the purpose for which it was acquired. Describe all processes for which each such chemical was used at the facility. Identify all spills, emissions, discharges and releases of any such chemical.
 - b. For PCBs: identify any PCBs previously or currently used or otherwise present at the facility, including, but not limited to, PCBs in capacitors, transformers,

vacuum pumps, hydraulic systems, and other electric power supply infrastructure; and (ii) PCBs in raw materials, wastes, wastewater, scrap, and byproducts. Identify the purpose for PCB use and identify all spills, emissions, discharges and releases of any PCBs at or from the facilities. Please provide MSDSs for PCB materials used at the facility.

- c. For metals and metal compounds (including but not limited to raw materials, scrap, byproducts, ash, wastewater and wastes containing metals or metal compounds but not including metals as components of structures or equipment): Identify any metals and metal compounds previously or currently used or otherwise present at the facility, and the purpose for each of them. Identify all spills, emissions, discharges and releases of any such substances at or from the facility since the time that your Company owned or operated the facility.

- 13. Waste Disposal. For all periods of the Company's ownership or operation of the Ash at McGuinness Facility, describe how wastes transported off the facility for disposal or treatment were handled, stored, and/or treated prior to transport to the disposal facility.
- 14. Equipment Cleaning and Maintenance. Describe the cleaning and maintenance of the equipment and machinery involved at the Ash at McGuinness Facility and the 11th Street Conduit Facility, including but not limited to:
 - a. Materials used to clean/maintain this equipment/machinery.
 - b. Monthly or annual quantity of each such material used.
 - c. Disposal of used cleaning materials.
 - d. Provide copies of Company manuals or procedures relating to cleaning of equipment and machinery.
- 15. Storage and Combustion of Coal. Did the Company store or combust coal at the Ash at McGuinness Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the facility:
 - a. Identify the purposes for such coal storage or combustion, including if used in energy production and the processes in which the energy was used at the facility.
 - b. Identify the volume of coal received at the facility, the type or types of coal (i.e. bituminous, anthracite, etc.) received and consumed on an annual basis during the period of the Company's ownership or operations, including changes over time.
 - c. Describe the means of storage of coal at the facility, and whether such storage was indoors or outdoors and covered or uncovered. Identify on a facility map or diagram the location of the coal storage facilities.

Section 2.2 Other Newtown Creek Facilities

- 16. Other Newtown Creek Facilities. Please identify with respect to all Other Newtown

Creek Facilities (see Definition 9.c) the following:

- a. Provide an itemized list of all Other Newtown Creek Facilities with a description of each such facility including a schematic drawing, the address or location of each such facility, the Company's interest in each facility (e.g., fee owner, easement owner, owner of personal property on land owned by another and subject to lease, license or permit from the owner or statutory right), the operations conducted at or by such facility and the dates of the Company's operations.
- b. Identify whether hazardous substances (see Definition 3) or petroleum or manufactured or natural gas have been or are present at each facility with a description of such materials and their purpose at such facilities.
- c. Identify any environmental or operating permits from governmental authorities with respect to such facilities and provide copies of all such permits.
- d. Identify all spills, leaks or releases from any such facilities and the Company's response to same.
- e. Identify all outfalls to Newtown Creek from each Other Newtown Creek Facility.

Section 2.3 Ownership or Operation of Newtown Creek

17. Ownership of Newtown Creek: At the present time or at any past time, has the Company or any affiliate:
 - a. Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?
 - b. Asserted control or exclusive rights to use any area of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging, filling, construction, maintenance or repair of any facility located in the waters, the associated wetlands or sediments, including, by way of example, tunnels or conduits, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or over-water facilities?
 - c. If the answer to either subparagraph "a" or "b" of this paragraph is yes, please identify the areas owned or controlled, or over which the Company has a right to use, provide an explanation of how and from whom the Company acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, and describe all activities conducted pursuant thereto.
 - d. Please include the 11th Street Conduit Facility and Other Newtown Creek Facilities in your response to this question.
18. Operations In Newtown Creek:
 - a. Identify all current and previous Company outfalls or discharge points into Newtown Creek, including location, gallons per day, source of influent and associated permits.

- b. Describe all activities that have been conducted by the Company over, on, under, or adjacent to Newtown Creek. Include in your description the location of the activity, whether the activity involved hazardous substances, industrial waste, petroleum or other waste materials and whether any materials were ever discharged, spilled, disposed of, dropped, or otherwise came to be located in Newtown Creek.
- c. Has the Company, or any affiliate, at any time constructed, operated or utilized any facility under the waters or sediments of Newtown Creek, including without limitation the 11th Street Conduit Facility or other tunnels or conduits, or pipes, pipelines, or other underwater or under sediment facilities?
- d. Please provide details for subparagraphs a, b and c, including:
 - i. the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek or resuspension of sediments associated with construction or maintenance of such facilities, and all permits associated with the construction or operation; and
 - ii. the source of the Company's authorization to construct or maintain such facilities in Newtown Creek including identification of the operating document (deed, lease, easement, license, permit, etc.) and the identity of the grantor, and provide copies of the relevant deeds, leases, licenses and permits.
- e. State whether any of the operations required to be identified above resulted in disposal or spillage of any materials into Newtown Creek or the re-suspension of any sediments of Newtown Creek.
- f. If the answer is a "yes" please provide details and any available documentation of such events.

Section 3.0 Facility Releases, Investigations and Remediation

- 19. Releases at Company Facilities. Has the Company ever provided notice to or made a report to any EPA or any New York State or New York City agency concerning a spill or release involving the Ash at McGuiness Facility or the 11th Street Conduit Facility or any Other Newtown Creek Facility? If so, describe each spill or release and provide copies of all communications between the Company and federal, state or local regulatory agency. Please indicate on a diagram of any such facility the location of the spill and its proximity to Newtown Creek. Without limitation please address the circumstances surrounding a 1999 spill involving 31 drums of creosote at the 11th Street Conduit Facility or the Ash at McGuiness Facility.
- 20. Soil Removal Actions. Has any contaminated soil ever been excavated or removed from the Ash at McGuiness Facility, the 11th Street Conduit Facility, or any Other Newtown Creek Facility? If yes, identify the reason for such soil removal action, the dates of such action, the identity of and location at the facility, and whether the soil removal was

performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the soil excavation and all data and analyses and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

21. Groundwater Action. Has the Company treated, pumped, or taken any kind of response action on groundwater under the Ash at McGuinness Facility or the 11th Street Conduit Facility or any Other Newtown Creek Facility? If yes, identify the reason for such groundwater action, the dates of such action, the identity of and location at the facility, and whether the groundwater action was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
22. Releases into Subsurface Units. Was there ever a spill, leak, release or discharge of waste, or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building at the Ash at McGuinness Facility or the 11th Street Conduit Facility or any Other Newtown Creek Facility? If yes, provide details of each event and any communication with any federal, state or city regulatory body.
23. Releases to Newtown Creek. In addition to activities addressed by questions 18 and 19 above, was there ever a spill, leak, release or discharge of a hazardous substance, pollutant, contaminant, industrial waste, petroleum or other waste, or material into Newtown Creek from the Ash at McGuinness Facility, the 11th Street Conduit Facility or any Other Newtown Creek Facility? If yes, identify such release and provide copies of any documents regarding the nature of the material released, the dates of each such occurrence, the amount and location of such release, and whether there was any action to treat or recover any materials that were the subject of the release. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
24. Environmental Investigations at Company Facilities. Identify all investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about the Ash at McGuinness Facility or the 11th Street Conduit Facility or any Other Newtown Creek Facility. Provide copies of all data, reports, and other documents that were generated by the Company or any contractor or consultant, or by a federal or state regulatory agency related to the investigations that are described and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

25. Phase I, Phase II and Other Environmental Investigations. Please provide copies of all environmental investigation reports in the Company's possession relating to the Ash at McGuinness Facility or associated with the 11th Street Conduit Facility or any Other Newtown Creek Facility, whether performed by or on behalf of the Company or any other person whether undertaken at the times of acquisition and transfers of the facility or at any other time.

Section 4.0 Regulatory Information

26. Regulatory Agencies with Jurisdiction Over Facilities. Identify each federal, state and local authority that regulates environmental concerns relating to the ownership or operation at the Ash at McGuinness Facility and the 11th Street Conduit Facility. Please identify the contact point at such agency, the activity regulated and the applicable federal, state and local statute or regulation from which such regulatory authority was derived.
27. Notices of Violation. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Ash at McGuinness Facility and the 11th Street Conduit Facility related to environmental matters. Provide copies of all documents associated with each occurrence described.
28. Environmental Permits. Provide a list of all local, state and federal environmental permits which have been applied for or issued to the Company with respect to the Ash at McGuinness Facility, the 11th Street Conduit Facility and each Other Newtown Creek Property for any media.
- a. For State Pollutant Discharge Elimination System and National Pollutant Discharge Elimination System permits, provide a copy of each such permit and identify the date the permit was first issued and all renewals.
 - b. For such SPDES or NPDES permits, provide a copy of all discharge monitoring reports and all notices of violation.
 - c. For each other permit, identify the permit, the media, the activity permitted, the agency issuing the permit, the date first issued and all renewal permits.
 - d. For each other permit identified in subparagraph c., above, identify all notices of violation and provide a copy of each notice of violation.
29. Regulated Waste Activity. Was a Notification of Regulated Waste Activity ever filed with EPA or New York State for any activity at the Ash at McGuinness Facility or the 11th Street Conduit Facility during the period that the Company owned or operated at the facility? If so, provide a copy of such notification and the response given by EPA or New York State including the RCRA identification number assigned.
30. Interim Status. Did the Company or any affiliate ever have "interim status" under RCRA at the Ash at McGuinness Facility or the 11th Street Conduit Facility? If so, and the

Facility does not currently have interim status, describe the circumstances under which interim status was terminated.

Section 5.0 Civil Litigation, Administrative Enforcement and Criminal Matters

31. Civil Litigation, Administrative Enforcement and Criminal Matters:

- a. Has the Company been a party to any litigation or involved in any other claim where an allegation by or against the Company included environmental contamination of Newtown Creek or contamination of any facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transportation, or arrangement for disposal relationship to the facility or some other basis)? If yes, identify such litigation or claim, briefly describe the allegation by or against the Company, the status of the litigation or claim, and provide a copy of the pleadings and any settlement agreement or court order.
- b. Has the Company been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from any facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transportation, or arrangement for disposal relationship to the facility or some other basis)? If yes, state the Company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.
- c. Has the Company or an employee, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at any facility located within 1,000 feet of Newtown Creek? If so, describe the disposition of such accusation and provide details on such accusation.

Section 6.0 Compliance with this Request and Financial Information

32. Persons and Source Materials Consulted in Your Response: Identify all persons, other than counsel, that the Company consulted, and all source materials that the Company reviewed in responding to this request, including, but not limited to, the names of persons consulted, the contact information for such person, and if the person is a current or former employee, the job title and responsibilities for such person and the dates of employment, and identify which questions the person was consulted about.
33. Persons Having Responsibility for Environmental Matters at Company Facilities. Identify all individuals who currently have and those who have had responsibility for the Company's environmental matters (e.g. responsibility for the disposal, treatment, storage,

recycling, or sale of the Company's wastes)for Company facilities located within 1,000 feet of Newtown Creek. Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning environmental matters.

34. Financial Information: Provide a copy of the Company's certified annual financial statements for each of the most recent three years.
35. Insurance and Indemnification:
 - a. Provide a schedule of liability insurance policies that may provide coverage to the Company for environmental liability associated with Newtown Creek.
 - b. Identify each entity that may have a duty to indemnify the Company for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to so indemnify the Company.
 - c. Identify each entity that the Company has agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Company.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION
NEWTOWN CREEK SUPERFUND SITE

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Company's response thereto should become known or available to the Company.

NAME (print or type)

TITLE (print or type)

COMPANY NAME

SIGNATURE

Sworn to before me this _____ day of _____, 2012

Notary Public

My commission expires: _____

[STAMP OR SEAL]